

REMARKS

Applicants are responding to a notice of Non-Complaint Amendment under 37 C.F.R. § 1.121. In the above referenced Office Action, it has been indicated that the status all the claims was not presented in a previously submitted response and amendment. Within this response, the status of all of the pending claims in this Application is indicated. For convenience, a duplicate of the previously submitted remarks section is also submitted herewith. Accordingly, hereafter, “the Office Action” refers to the Office Action mailed May 3, 2001.

Applicant respectfully request further examination and reconsideration in view of the above amendments and the arguments set forth below. Claim 11 has never been submitted with the instant application. Claims 1-10 and 12-23 were previously pending in this application. Claims 1-10 and 12-23 have been rejected. By way of the above amendment, Claims 3, 10, 14, 16-18, 21, 22 and 23 have been amended and new claims 24-30 have been added. Claims 1-10 and 12-30 are now pending in this application.

Objection of Claim(s):

Within the Office Action, claim 16 has been objected to for reciting “fattened”. By way of the above amendment, the word “fattened” has been replaced with --flattened--.

Rejections Under 35 U.S.C. § 102(b)

Within the Office Action, claims 1-4 and 4-18 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,231,999 to Schroettner, (hereafter “Schroettner”).

Within the Office Action it is stated that Schroettner discloses a hair system comprising a parting device with a tip portion for tracing through the hair and a flattened elongated stencil with an edge having a plurality of pointed teeth. Further, it is stated within the Office Action that with regards to claims 21-22, Schroettner is capable of performing all the steps as substantially claimed.

Claims 1-4 and 6-23 are similarly rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,348,030 to Hirzel, (hereafter “Hirzel”) and claims 1-4, 6-7 and 9-23 are similarly rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,062,231 to De Laforcade, (hereafter “De Laforcade”). It appears that the rejection of claims 1-4, 6-7 and 9-23 under 35 U.S.C. § 102(b) is incorrect. The rejections of claims 1-4, 6-7 and 9-23 may only be asserted under 35 U.S.C. § 102(e) in view of the reference to De Laforcade. Regardless, the Applicant respectfully traverses the rejection of claims 1-4 and 6-24 under 35 U.S.C. § 102(b) or

§ 102(e) for the following reasons.

Schroettner discloses a comb for separating hair. The comb has a first row of teeth and a second row of teeth protruding to different distances angularly from a handle portion.

Schroettner, does not teach or disclose a stencil or a template of any kind. Further, Schroettner fails to teach or suggest a stencil or template for placing against a user's hair in order to provide a guide while tracing a part through the user's hair.

Hirzel teaches a brush with retractable bristles for brushing, cleaning and curling hair. The handles are jointed at their rear ends by a "U-shape" for creating spring force. The spring force is used to hold the bristles in an upward position and secures the handles to a tube section through which the bristles extend. Moving the handles together causes the bristles to retract within the tube section. Hirzel, however, fails to teach or disclose a stencil or a template of any kind, wherein the stencil or template provides a guide while tracing a part through hair.

De Laforcade teaches a hair styling device for applying a hair product to tresses of hair. The device includes a tip for separating a given tress, two handles attached by one end, which are capable of being closed, and a row of teeth that fold over onto the tip and facilitate the application of hair products to the tress. De Laforcade, however, fails to teach or disclose stencil or template of any kind, wherein the stencil or template provides a guide to trace a part in hair.

All of the independent claims 1, 14, 21 24, 26, 27, 28 and 29 recite elements of a stencil or a template and/or the use thereof. Neither Schroettner, Hirzel nor De Laforcade teaches or suggests the elements of the current claims. The rejection of claims 1-4 and 6-23 under 35 U.S.C. § 102(b) and/or 102(e) in view Schroettner, Hirzel or De Laforcade are, therefore, deemed inappropriate.

Within the Office Action, claim 5 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over by Schroettner or Hirzel, or De Laforcade. The rejection of claim 5 under 35 U.S.C. § 103(a) is considered moot in view of the amendments and arguments set forth herein.

Claim 1 is directed to a hair styling system for parting hair according to a predetermined pattern. The hair styling system comprises a parting device with a tip portion for tracing through the hair and a stencil with a styling edge that is contoured to the predetermined pattern, wherein placing the stencil on an area of the hair, tracing the tip portion of the parting device along a styling edge of the stencil and separating the hair along the trace, parts the hair according to the predetermined pattern. As described above, neither Schroettner, Hirzel nor De Laforcade teaches a stencil as currently claimed in the independent claim 1. For at least these reasons, the independent claim 1 is allowable over the teachings of Schroettner, Hirzel and De Laforcade.

Claims 2-13 are all dependent on the independent claims 1. As described above, the

independent claims 1 is allowable over the teachings of Schroettner, Hirzel and De Laforcade. Accordingly, claims 2-13 are all allowable as being dependent on an allowable base claim.

5 Claim 14 is directed to a system for parting hair. The system comprises tracing and separating means for tracing a predetermined pattern through the hair and parting the hair according to the predetermined pattern and a stencil with a styling edge that outlines the predetermined pattern and is configured to guide the tracing and separating means through the hair and part the hair according to the predetermined pattern. As described above, neither Schroettner, Hirzel nor De Laforcade teach a stencil as currently claimed in the independent claim 14. For at least these reasons, the independent claim 14 is allowable over the teachings of
10 Schroettner, Hirzel and De Laforcade.

Claims 15-20 are all dependent on the independent Claims 14. As described above, the independent Claims 14 is allowable over the teachings of Schroettner, Hirzel and De Laforcade. Accordingly, Claims 15-20 are all allowable as being dependent on an allowable base claim.

15 The independent claim 21 is directed to a method for styling hair comprising providing a stencil with a predetermined pattern, placing the stencil over an area of the hair, tracing the predetermined pattern from the stencil and through the hair with a parting device while holding the stencil in place over the area of the hair; and separating the hair along the trace. As described above neither Schroettner, Hirzel nor De Laforcade teach using a stencil as currently claimed in the independent claim 21. For at least these reasons, the independent claim 21 is allowable over
20 the teachings of Schroettner, Hirzel and De Laforcade.

Claims 22-23 are all dependent on the independent claims 21. As described above, the independent claims 21 is allowable over the teachings of Schroettner, Hirzel and De Laforcade. Accordingly, claims 22-23 are all allowable as being dependent on an allowable base claim.

25 The independent claim 24 is directed to a stencil for parting hair according to a predetermined pattern, the stencil comprising an flattened elongated body with a continuous styling edge, the continuous styling edge comprising a plurality of geometric protrusions wherein the stencil is configured to be held stationary against the hair while tracing a portion of the continuous styling edge with a parting device through the hair to from a part in the hair with a shape that is substantially similar the portion of the continuous styling edge. As described above,
30 neither Schroettner, Hirzel nor De Laforcade teach a stencil as currently claimed in the independent claim 24. For at least these reasons, the independent claim 24 is allowable over the teachings of Schroettner, Hirzel and De Laforcade.

Claim 25 depends on the independent Claims 24. As described above, the independent claims 24 is allowable over the teachings of Schroettner, Hirzel and De Laforcade.

Accordingly, claim 25 is allowable as being dependent on an allowable base claim.

The independent claim 26 is directed to hair styling system for parting hair. The system comprises an extended tip section comprising a pointed end, a first handle section with a proximal and distal end a second handle section with a proximal and distal end, a first hinge for adjoining the first handle near its distal end to the extended tip section and a second hinge for adjoining the second handle near its distal end to the extended tip section wherein first and second handle are capable of being place in a closed position by aligned the proximal ends and placed in an open position by separating the proximal ends. The system also comprises a stencil with a contoured styling edge, wherein hair is parted by holding the stencil against the user's head, guiding the pointed end of the extended tip section through a section of hair along the contoured styling edge of the stencil with the first and the second handle in the closed position and placing the first and second handle in the open position. As described above neither Schroettner, Hirzel nor De Laforcade teach a stencil as currently claimed in the independent claim 26. For at least these reasons, the independent claim 26 is allowable over the teachings of Schroettner, Hirzel and De Laforcade.

The independent claim 27 is directed to a method for parting hair in a preferred configuration. The method comprises placing a template with patterned edge on a section of hair; placing a pointed tip portion of a styling device near the patterned edge of the template, the styling device comprising a first and a second handle coupled by one end of each of the first and a second handles to the pointed tip portion through a first and a second hinge element, tracing along the a pattered edge of the template with the handles aligned in a closed position and the pointed tip portion pointing in a forward tracing direction and separating the handles to an open position about the pointed tip portion, thereby parting the hair in the preferred pattern. As described above, neither Schroettner, Hirzel nor De Laforcade teach using a template as currently claim in the independent claim 27. For at least these reasons, the independent claim 27 is allowable over the teachings of Schroettner, Hirzel and De Laforcade.

The independent claim 28 is directed to a device for parting hair. The device comprises means to trace, for tracing a part through a section of hair, the means to trace comprising a pointed tip and a template with pattern for guiding the pointed tip along a user's scalp and means to separate the hair along the part, the means to separate the hair along the part comprising a first and a second handle each coupled to the means to trace through a first and a second hinge element such that the hair is capable of being separated without removing the means to trace from the section of hair. As described above, neither Schroettner, Hirzel nor De Laforcade teach a template as currently claim in the independent claim 28. For at least these reasons, the

independent claim 28 is allowable over the teachings of Schroettner, Hirzel and De Laforcade.

The independent claims 29 is direct to a method making a hair parting system comprising forming a flexible elongated template comprising, forming a flexible elongated stencil with a plurality geometric protrusions along a styling edge, forming a separate parting device comprising an extended tip section with a pointed end, wherein the separate parting device is configured to trace a pattern through the hair and along the styling edge of the stencil, while the styling stencil is held against the hair. As described above, neither Schroettner, Hirzel nor De Laforcade teach forming flexible elongated template as currently claimed in the independent claim 29. For at least these reasons, the independent claim 28 is allowable over the teachings of Schroettner, Hirzel and De Laforcade.

For the reasons given above, Applicants respectfully submit that Claims 1-10 and 12-30 are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: _____

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By: _____

James A. Gayney Jr.

Reg. No. 45,687